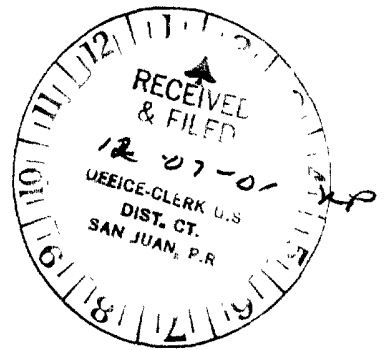


UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO



EDWIN NORIEGA-RIVERA et al
Plaintiffs

v.

CIVIL NO. 97-2238 (DRD)

PEDRO TOLEDO, et al
Defendants.

ORDER

Plaintiffs request Entry of Default against the two remaining Co-Defendants, Mariano Torres and Enrique Perez (Docket # 40). Plaintiffs' Motion is **DENIED**.

The case history at bar shows the case was originally dismissed, with prejudice, for lack of prosecution, with Plaintiffs' inaction for more than two years. A motion for reconsideration was also denied. A subsequent motion for reconsideration resulted in an order for Plaintiffs to show cause why the subsequent motion should not also be denied. Finally the Court was extremely lenient in accepting Plaintiffs' compliance with the Show Cause Order, and reopened this case on October 5, 2001.

While it is true that the Co-Defendants were served in December of 1997 (Docket #'s 10 & 11), it is not true (as Plaintiffs insinuate) that the Co-Defendants have been inactive since that time. In January of 1998 Co-Defendants requested an extension of time to answer the Complaint or otherwise plead (Docket # 15). In February of 1998 they requested an additional extension (Docket # 18). In April, 1998, they filed a Motion to Dismiss (Docket # 19). The Plaintiffs even opposed the motion (Docket # 22). In July of 1998 the Court referred the Motion to Dismiss to Magistrate Judge Justo Arenas for a Report & Recommendation (Docket # 23). In August of 1998 Magistrate Arenas recommended that their motion be denied (Docket # 24). The Court immediately adopted the Magistrate Judge's recommendation (Docket # 25). In April of 2001, as noted above, the Court dismissed the case with prejudice for Plaintiffs' lack of prosecution (Docket # 34).

Clearly more than twenty days have passed since December of 1997 for the Defendants to answer the Complaint, as required by the Federal Rules of Civil Procedure. Only recently, however (October 5, 2001), has it become necessary for the Defendants to once again become active in this case. While they should have answered by now, the Court is willing to be a little lenient with them, considering how lenient the Court has been with the Plaintiffs. Defendants are hereby ordered to answer the Complaint by **Friday, December 28, 2001, at 5:00 PM**.

41 rd

2

Should the Defendants not answer by December 28th, the Court will entertain a new Motion Requesting Entry of Default.

NO FURTHER EXTENSIONS SHALL BE GRANTED.

IT IS SO ORDERED.

Date: December 6, 2001

A handwritten signature in black ink, appearing to read "Daniel R. Dominguez", with a stylized flourish at the end.

**DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE**

P:\RDSC\Cases\97-2238\Def Den.wpd